

FIRST APPEAL NO.2262 OF 2006

Mrs.G.P.Mulekar, AGP for appellant.
Mr.G.K.Maurya i/by Pallavi Potnis for respondent
no.1.

PC :

1. Heard learned AGP for the appellant and learned advocate for the first respondent.
2. The office noting and order dated 25th January 2007 disclose that the appeal stands abated as against respondent no.2. In fact, the earlier order recording abatement was passed on 24th July 2006 in Civil Application No.4723 of 2003. No Civil Application was filed by the appellant after that order. The appeal has remained pending in this Court for substantially long period. Till today no steps are taken for setting aside the abatement as against respondent no.2.

3. In this appeal the challenge is to the judgement and award passed by the Trial Court in a reference u/s 18 of the Land Acquisition Act, 1894. The respondents herein were the original claimants. The learned Trial Judge by the impugned judgement and award has granted enhancement in market value in favour of the respondents and has also granted statutory benefits of solatium and interest. As a result of abatement of the appeal as against the second respondent, the impugned judgement and award has become final insofar as the said respondent is concerned. The impugned judgement and award operates on the ground which is common to both the respondents. Therefore, if this appeal is heard on merits and reduction in compensation of amount is granted, it will amount to passing two inconsistent awards in the same case. It is not permissible to pass such inconsistent awards as the impugned judgement and award is common to both the respondents. Therefore, the appeal does not survive and even as against first respondent. The appeal is accordingly dismissed. No order as to costs.

MST

((-3-))

(A.S.OKA, J.)